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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/126,884	07/31/1998	MICHAEL C. BERTRAM	533/133	9408
26291	7590	06/23/2005	EXAMINER	
MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702			NGUYEN, BRIAN D	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/126,884

Applicant(s)

BERTRAM ET AL.

Examiner

Brian D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-10,12 and 16-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-10,12 and 16-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 1998 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-3, 5-10, 12, and 16-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The limitation: "a modified packet uses a matching time stamp of said received transport stream" in claims 1, 7, 12, and 27 was not described in the specification.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8, 16-17, 23-25, and 27-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8, line 2, "CLK" is not defined.

Claim 16 recites the limitation "said at least one encoded program stream" in line 5.

There is insufficient antecedent basis for this limitation in the claim.

Claim 23 recites the limitation "said processed output transport stream" in line 5. There is insufficient antecedent basis for this limitation in the claim.

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Claim 27 recites the limitation "said common time base" and "said periodically inserted time stamps" in line 17 and "said received transport stream" in lines 18 & 19. There are insufficient antecedent basis for these limitations in the claim. "said slotted transport stream" in line 16 is unclear if the applicant is referring to "a slotted transport stream" mentioned in line 11 or lines 15-16.

Claim 28 recites the limitation "said corresponding time slot" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 5-10, and 12-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slattery (6,246,701) in view of Gardner et al (6,327,275).

Regarding claim 1, Slattery discloses a method for processing a transport stream (TS1, TS2, TS3 of figure 1) comprising a plurality of time slots for transporting therein respective programs having a common time base (see col. 2, lines 7-10) indicated by periodically inserted time stamps (col. 3, lines 29-43) comprising modifying packets associated with a desired time slot of a received transport stream to produce an output transport stream (col. 4, line 62-col. 5, line 2) and transmitting the output transport stream (TS 4, TS5), wherein the transmitted output transport stream includes respective modified programs having the common time base indicated

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by the periodically inserted time stamps provided by the received transport stream (see abstract; Fig. 1; col. 3, lines 12-14; col. 5, lines 48-50 & 62-65; col. 6, lines 11-16; col. 9, lines 26-30; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; and col. 40, lines 28-30). Slattery implicitly discloses a matching time stamp (...match a time...) in col. 11, lines 49-64). Slattery does not specifically show the relative position (matching time stamp) of the modified packet in the received transport stream and the output transport stream. However, Gardner explicitly shows the relative position of the modified packet in the received transport stream and the output transport stream (see col. 4, lines 30-59 and col. 5, lines 5-13 where B packet is replaced by null packet "--" and the timing of null packet matches the timing of B packet in the received transport stream). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a matching time stamp of the received transport stream as taught by Gardner in the system of Slattery with the motivation being to maintain the timing of the packets in the received transport stream.

Regarding claims 2-3 and 5-6, Slattery further discloses examining and replacing NULL packets/programs with replacement packets/programs by inserting the replacement packets/programs into an output transport stream (see abstract; Fig. 1; col. 3, lines 12-14; col. 5, lines 48-50; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; and col. 40, lines 28-30).

Regarding claims 7-10 and 26, Slattery discloses an apparatus for processing a received transport stream (TS1-3 of figure 1) comprising N time slots for transporting therein N respective programs having a common time base (col. 2, lines 7-10) indicated by periodically inserted time stamps comprising a transport clock source; N transport encoders (see col. 3, lines 22-29); a multiplexer (30 of figure 1) for receiving and modifying packets associated with a desired time

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slot of one or more transport encoded program streams. The multiplexer producing a processed transport stream (TS4-5), wherein the processed transport stream includes respective modified programs having the common time base indicated by the periodically inserted time stamps provided by the received transport stream and a file server coupled between the multiplexer and the N transport encoders (see abstract; Fig. 1; col. 3, lines 12-14; col. 5, lines 48-50; col. 9, lines 26-30; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; col. 29, line 41-col. 30, line 7; and col. 40, lines 28-30). Slattery implicitly discloses a frequency divider to divide a timing signal CLK from the transport clock source into N timing signals so as the bit rate of the slotted transport stream will be equal to the sum of the bit rates of the N slots. Slattery also implicitly discloses a matching time stamp (...match a time...) in col. 11, lines 49-64). Slattery does not specifically show the relative position (matching time stamp) of the modified packet in the received transport stream and the output transport stream. However, Gardner explicitly shows the relative position of the modified packet in the received transport stream and the output transport stream (see col. 4, lines 30-59 and col. 5, lines 5-13 where B packet is replaced by null packet "--" and the timing of null packet matches the timing of B packet in the received transport stream). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a matching time stamp of the received transport stream as taught by Gardner in the system of Slattery with the motivation being to maintain the timing of the packets in the received transport stream.

Regarding claim 12, Slattery discloses an apparatus for processing a received transport stream (TS1-3) comprising a plurality of time slots for transporting therein a respective plurality of programs having a common time base (col. 2, lines 7-10) indicated by periodically inserted

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time stamps comprising a transport clock source, a plurality of encoder (col. 3, lines 21-32) for receiving and encoding program streams to produce a respective encoded program stream (TS4-5), each of the encoded program streams being coupled to a switch (30) via a respective buffer memory (col. 6, lines 40-48), the switch selectively coupling program stream transport packets from the buffer memories for modifying packets associated with a desired time slot to produce a slotted transport stream, wherein the slotted transport stream includes respective modified programs having the common time base indicated by the periodically inserted time stamps provided by the received transport stream (see abstract; Fig. 1; col. 3, lines 12-14; col. 5, lines 48-50; col. 9, lines 26-30; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; col. 29, line 41-col. 30, line 7; and col. 40, lines 28-30). Slattery implicitly discloses a frequency divider to divide a timing signal CLK from the transport clock source into N timing signals so as the bit rate of the slotted transport stream will be equal to the sum of the bit rates of the N slots. Slattery also implicitly discloses a matching time stamp (...match a time...) in col. 11, lines 49-64). Slattery does not specifically show the relative position (matching time stamp) of the modified packet in the received transport stream and the output transport stream. However, Gardner explicitly shows the relative position of the modified packet in the received transport stream and the output transport stream (see col. 4, lines 30-59 and col. 5, lines 5-13 where B packet is replaced by null packet "--" and the timing of null packet matches the timing of B packet in the received transport stream). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a matching time stamp of the received transport stream as taught by Gardner in the system of Slattery with the motivation being to maintain the timing of the packets in the received transport stream.

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Regarding claims 13, 16-17, and 21-22, Slattery further discloses a file server (40) for storing encoded program streams and selectively providing at least one encoded program stream to the switch (see Figure 1).

Regarding claims 14-15, 18-20, and 23-25, Slattery further discloses NULL transport packets, adding and deleting NULL transport packets and program packets (see elements 50 & 60 of Figure 1; col. 4, lines 62-67; col. 5, lines 48-50; and col. 10, lines 32-40).

Regarding claims 27-29, claims 27-29 are apparatus claims that includes limitations described in apparatus claims 12 and 18 (note that claims 27-29 does not include a transport clock source as described in claim 12 and does not claim bitrate as described in claim 18). Therefore, they are subject to the same rejection.

Response to Arguments

7. Applicant's arguments filed 5/6/05 have been fully considered but they are not persuasive.

The applicant argued that the primary issue with regard to the cited art is whether the cited art sufficiently discloses that a modified packet that is part of a transmitted output transport stream uses a matching time stamp of the received transport stream. However, a matching time stamp was not described in the specification. The examiner uses the drawings; specifically figures 4 and 6, for the claimed limitation interpretation. Both Slattery and Gardner disclose replacing one program or a null program by another program while maintaining relative positions between the programs in the output transport stream.

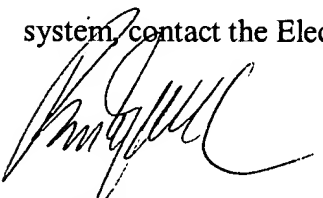
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Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D. Nguyen whose telephone number is (571) 272-3084. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



6/13/05

**BRIAN NGUYEN
PRIMARY EXAMINER**